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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,636	11/05/2003	Satoshi Banno	Q78174	4859

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WASHINGTON, DC 20037

EXAMINER
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SHEDRICK, CHARLES TERRELL

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/700,636	BANNO, SATOSHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles Shedrick	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-13 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

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1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

## **DETAILED ACTION**

### ***Response to Arguments***

2. Applicant's arguments filed 5/9/06 have been fully considered but they are not persuasive.

3. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a portable telephone which determines a position method to be performed on the next positioning based on the location information obtained by the previous positioning.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,5,7,8, 11, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by (Vilppula et al. US 2002/0019698 A1, "Vilppula").

Consider **claims 1 and 7**, Vilppula teaches a portable telephone and position selection method capable of determining a location of the telephone with a global positioning system (**figure 8 and paragraph 0078**), wherein the telephone has a calculation unit (i.e., see at least inherent functionality of device 100) which calculates a distance between an objective point and the location of the telephone (i.e., position determination)(**abstract, paragraphs 0006,0013-0030**), determination unit (i.e., inherent functionality of device 100) which determines an existence area where the telephone is located according to the calculated distance(**abstract, paragraphs 0006,0013-0030**), and a selection unit (i.e., inherent functionality of device 100) which selects a positioning method from a plurality of positioning method of different positioning accuracies according to the determination results(i.e., Quality thresholds and various parameters can be set on the basis of position accuracy. The parameters describing the quality is stored )(paragraphs 0007,0011,0044,0047-0048,0052,0056,and 0066).

Consider **claims 2 and 8 and as applied to the portable telephone according to claim 1 and the position selection method of claim 7**, Vilppula teaches wherein said selection unit selects a detailed positioning method when said existence area is an area near said objective point (i.e., at any given time, the PMSD can automatically determine the best positioning method available, which can be specified by user or application)(**paragraph 0007-0009,0031-0033,and 0052**), selects a rough positioning method for performing rough positioning when said existence area is an area far from said objective point(i.e., user/application can choose a method based on accuracy or various conditions such as distance from a given point)(**paragraph 0007-0009,0031-0033,and 0052**), and selects one of the positioning methods when said existence area is an intermediate area to said objective point(i.e., user/application can choose method based on

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accuracy or various conditions such as distance from a given point)(**paragraph 0007-0009,0031-0033,and 0052**).

Consider **claims 5 and 11 and as applied to the portable telephone according to claim 2 the position selection method of claim 8**, wherein the detailed positioning method determines the location of the telephone using said global positioning system (**paragraphs 0002-0003, 0011,0051, 0078, and figure 8**).

Consider **claim 13**, Vilppula teaches a computer readable medium storing program performing a positioning selecting method for a portable telephone capable of determining a location of the telephone with a global positioning system (**paragraphs 0025-0030**), wherein said program causes a computer to execute a process of calculating a distance between an objective point and the location of the telephone (i.e., position determination)(**abstract, paragraphs 0006,0013-0030**), a process of determining an area where the telephone is located according to the calculated distance( i.e., position determination)(**abstract, paragraphs 0006,0013-0030**), and a process of selecting one positioning method from a plurality of positioning methods of different positioning accuracies according to the determination results(**paragraphs 0007,0011,0044,0047-0048,0052,0056,and 0066**).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 3,4,6,9,10,and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Vilppula et al. US 2002/0019698 A1, "Vilppula" in view of Hayashida US Patent No.: 6,963,749 B2).

Consider **claims 3 and 9 and as applied to the portable telephone according to claim 2 and the position selection method of claim 8**, Vilppula teaches wherein, when said existence area is the intermediate area, said selection unit selects one of the positioning methods (i.e., user/application can choose methods based on accuracy or various conditions such as distance from a given point)(**paragraph 0007-0009,0031-0033,and 0052**)

However, Vilppula does not specifically teach a method according to a reception level of a signal received from a base station.

In the same field of endeavor, Hayashida teaches a method according to a reception level of a signal received from a base station (**col. 5 lines 12 –38**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Vilppula to include a method according to a reception level of a signal received from a base station as taught by Hayashida for the purpose of position and location determination.

Consider **claims 4 and 10** and as applied to the portable telephone according to **claim 3 and the position selection method of claim 9**, Vilppula teaches wherein, when selecting one of the positioning methods according to parameter values and various conditions (**paragraphs 0006,0008-0009, 0032-0033**), said selection unit determines parameters to be compared to the parameters and conditions according to the calculated distance(**paragraphs 0006,0008-0009, 0032-0033**).

However, Vilppula does not specifically teach according to the reception level and threshold level.

In the same field of endeavor, Hayashida teaches according to the reception level and threshold level (**col. 5 lines 12 –38**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Vilppula to include a method according to a reception level and threshold as taught by Hayashida for the purpose of position and location determination.

Consider **claims 6 and 12** and as applied to the portable telephone according to **claim 2 and the position selection method of claim 8**. Vilpulla teaches wherein the rough positioning determines the location of the telephone (**abstract, paragraphs 0006,0013-0030**).

However, Vilppula does not specifically teach using a base station.

In the same field of endeavor, Hayashida teach using a base station (**col. 5 lines 12 –38, and col. 7 lines 3-11**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Vilppula to include location information of a base station as

taught by Hayashida for the purpose of position and location determination.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Shedrick whose telephone number is (571)-272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid Lester can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Charles Shedrick  
AU 2617  
July 13, 2006



**LESTER G. KINCAID**  
**SUPERVISORY PRIMARY EXAMINER**